



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

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ATTORNEY GENERAL

September 30, 1953

Mr. Sam Lee
District Attorney
Angleton, Texas

Letter Opinion Number MS-97

Re: Legal rate for newspaper
advertising of citation
and notice of sale in
delinquent tax suits.

Dear Mr. Lee:

Your recent letter presents the following questions to this office:

"(1) In citations in delinquent tax suits published on real estate, is the maximum fee that a newspaper may charge equal to 2¢ per word for the first insertion and 1¢ per word for the second insertion?

"(2) May a newspaper charge the same fee as charged per word or line of that newspaper for like classes of advertising if such charge is higher than the 2¢ per word and the 1¢ per word, as mentioned hereinbefore?

"(3) Would the same rule apply to notices of sale advertising the sale of the property after judgment is taken?

"(4) Would the legal rate for notices of sale on the third insertion be 1¢ per word?

"(5) Could the legal rate for the third insertion of the notice of sale be the same as that charged by that newspaper per word or line for like classes of advertising?"

Your conclusion that the first question must be answered "yes" and the second question answered "no" upon the basis of Rule 117(a) of the Rules of Civil Procedure

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is the proper view in the light of the express repeal of Article 73^{45b} and the provision in Rule 110 that Rule 117(a) shall govern in tax suit citations.

Your third, fourth and fifth questions are governed by Article 7276, V.C.S., which reads in part as follows:

"In making sales of real property for taxes, the Collector shall advertise the same for sale in some newspaper . . . for three successive weeks . . . and the publisher of such newspaper shall receive as compensation the legal rate of two (2) cents per word for the first insertion of such publication and one (1) cent per word for each subsequent insertion or such newspaper shall be entitled to charge for such publication at a rate equal to but not in excess of the lowest published word or line rate of that newspaper for classified advertising. . . ." (emphasis supplied.)

In 1939, the 46th Legislature, by Chapter 25, relinquished to the Supreme Court full rule-making power in civil judicial proceedings. Section 1. That Act also provided that the Supreme Court should list the statutes which conflicted with the promulgated rules and were thereby repealed to the extent of that conflict. Section 3. The order of the Supreme Court entered August 18, 1947 does not list Article 7276, V.C.S. as being in conflict with the rules of the Supreme Court.

Thus, your third question is answered in the negative since article 7276, V.C.S., and not Rule 117(a) is controlling. Your fourth and fifth questions are answered by the terms of the statute. The rate could be two cents for the first insertion and one cent for each additional insertion, or the lowest rate for classified advertising charged by the particular newspaper could be charged for each insertion.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
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